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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,009	07/18/2003	Michael Novak	MS#303011.01 (5057)	4582

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SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER	
PADMANABHAN, KAVITA	
ART UNIT	PAPER NUMBER
2161	

NOTIFICATION DATE	DELIVERY MODE
08/21/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspatents@senniger.com

Office Action Summary	Application No.	Applicant(s)	
	10/623,009	NOVAK ET AL.	
	Examiner	Art Unit	
	Kavita Padmanabhan	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 June 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *6/5/07, 6/8/07, 8/2/07*
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Claims 1-18 are pending.

2. Claims 1, 3, 5, 9, 12, 14, and 18 have been amended.

3. Claims 1-18 are rejected.

Continued Examination Under 37 CFR 1.114

4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/5/07 has been entered.

Specification

5. The amendment filed 6/5/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The applicant is attempting to delete the phrase "as metadata can for a specific media file can be retrieved from a variety of sources" from par [0004] of the specification. This introduces new matter in that originally the applicant conceded that metadata can for a specific media file

can be retrieved from a variety of sources and now it appears that the applicant has taken a new contradictory position by way of this amendment.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-18** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "media files" in line 6 of the claim. There is insufficient antecedent basis for this limitation in the claim, since only one media file is recited prior to this in the claim. **Claim 10** includes a similar limitation and is similarly rejected.

Claim 1 recites the limitation "by which the media files are prioritized" in line 6 of the claim. This limitation is unclear. Furthermore, line 4 of the claim recites "prioritizing the plurality of media file sources". Therefore, there does not appear to be antecedent basis for the media files being prioritized, but rather it is the media file *sources* that are prioritized. **Claim 10** includes a similar limitation and is similarly rejected.

Claim 3 recites the limitation "in the prioritized plurality of *media file sources identified* as including metadata defining the property" at lines 5-6 of the claim. There is insufficient antecedent basis for this limitation in the claim, since only one media file source appears to have

been identified in the preceding claims. **Claim 12** includes a similar limitation and is similarly rejected.

The examiner will apply prior art to this claim as best understood in light of the above rejection.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. **Claims 1-4, 10-13, and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dutta et al. (US 2002/0138471, hereinafter "Dutta") in view of Woodward et al.** (2003/0036948, hereinafter "Woodward").

In regards to **claim 1, Dutta** teaches a method for retrieving a property of a media file being played via a media player, wherein the media file is retrieved from one of a plurality of media file sources, comprising:

- prioritizing the plurality of media file sources for retrieving the property of the media file based on business rules **(Dutta; par [0075])**, said business rules indicating at least compatibility and importance of the media file sources by which the media files are prioritized **(Dutta; par [0061] – factors influencing peer/source rating)**;
- querying each of the prioritized plurality of media file sources according to their priority to identify a source of the media file **(Dutta; par [0076]; par [0096])**.

Dutta does not expressly teach the identified source of the media file including metadata associated therewith and displaying the property as defined by the associated metadata of the identified source of the media file as the media file is being played via the media player.

Woodward teaches a source of a media file including metadata associated therewith **(Woodward; par [0018] – par [0020])** and also teaches displaying a property of the media file as defined by the associated metadata as the media file is being played via the media player **(Woodward; par [0017], lines 18-30)**.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method of Dutta using the features taught by Woodward, wherein each peer constitutes a media file source including associated metadata, in order to be able to display descriptive information about a media file while the file is being played **(Woodward; par [0017], lines 21-27)**.

In regards to **claim 2**, **Dutta and Woodward** teach the method of claim 1 further comprising retrieving the property defined by the metadata of the identified source of the media file when the identified source defines the property, and retrieving the property defined by the source having the highest priority below the identified source of the media file when the identified source does not define the property **(Dutta; par [0076]; par [0096])**.

In regards to **claim 3**, **Dutta and Woodward** teach the method of claim 2,

- wherein querying includes querying each of the prioritized plurality of media file sources according to their priority to identify a property for the media file defined by the metadata of the source of the media file **(Dutta; par [0076]; par [0096])**, and
- wherein retrieving includes retrieving the property as defined by the metadata of a first source in the prioritized plurality of media file sources identified as including metadata defining the property **(Dutta; par [0076]; par [0096])**.

In regards to **claim 4**, **Woodward** teaches the method of claim 3, wherein each media file source corresponds to a metadata source **(Woodward; par [0018] – par [0020])**, and wherein querying includes querying each of the metadata sources to identify the property for the media file **(Dutta; par [0076]; par [0096])**.

Claims 10-13 are rejected with the same rationale given for claims 1-4, respectively.

In regards to **claim 16, Dutta and Woodward** teach the computer readable storage medium of claim 10, wherein retrieving instructions determine the metadata source from which to retrieve the property as a function of the property to be displayed **(Dutta; par [0060] – par [0061])**.

11. **Claims 5-7 and 14-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dutta in view of Woodward in view of Fowler et al.** (US 6,493,436, hereinafter "Fowler").

In regards to **claim 5, Dutta and Woodward** teach the method of claim 4, wherein the priority for querying each of the metadata sources is determined according to a predetermined importance assigned to each of the plurality of metadata sources **(Dutta; par [0075]), wherein** the metadata source deemed most important is queried first **(Dutta; par [0076])**. Dutta and Woodward also teach basic metadata such as artist name, album name, and track name for an audio file, as well as additional metadata such as year and genre, and teach displaying whichever items are available **(Woodward; par [0017], lines 18-30)**.

Dutta and Woodward do not expressly teach a least important source being queried last or the source deemed least important providing a basic metadata or a default metadata.

Fowler teaches prioritizing sources, checking/querying the most desirable, which is equivalent to being deemed the most important, source first, then the next most important, etc. until a suitable match is found or the last source has been checked/queried **(Fowler; col. 2, lines 14-35)**.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method of Dutta and Woodward by incorporating the features taught

by Fowler whereby a more complete search could be performed including searching the metadata source/peer deemed least important. Furthermore, since Woodward and Dutta teach metadata sources including basic metadata, the metadata source deemed least important could obviously also provide such basic metadata information.

In regards to **claim 6**, **Dutta, Woodward and Fowler** teach the method of claim 5, wherein querying includes issuing a chain of calls to each metadata source, wherein a first call is to the metadata source deemed most important, and wherein a subsequent call is to the metadata source deemed the next most important, and wherein a last call is to the metadata source deemed the least **(Dutta, par [0096]; Fowler, col. 2, lines 14-35)**.

In regards to **claim 7**, **Dutta, Woodward and Fowler** teach the method of claim 6, wherein the property to be displayed determines the metadata source from which to retrieve the property **(Dutta; par [0060] – par [0061])**.

Claims 14-15 are rejected with the same rationale given for claims 5-6, respectively.

12. **Claims 8 and 17** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dutta in view of Woodward in view of Cato et al.** (US 2003/0120928, hereinafter "Cato").

In regards to **claim 8**, **Dutta and Woodward** teach the method of claim 1.

Dutta and Woodward do not expressly teach retrieving metadata from the metadata source that returns the property in the least amount of time.

Cato teaches, where there are multiple sources, retrieving the data from the source with the fastest internet connection, i.e. that would return the data the fastest **(Cato; par [0115])**.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method taught by Dutta and Woodward with the feature taught by Cato, whereby the metadata would be retrieved from the source that is able to return the data the fastest in order to provide the most time efficient service.

Claim 17 is rejected with the same rationale given for claim 8.

13. **Claims 9 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Dutta and Woodward in view of Ramalay et al.** (US 2002/0138619, hereinafter "Ramalay"**), further in view of Eyal et al.** (US 2003/0033420, hereinafter "Eyal"**), further in view of Diamond et al.** (US 2002/0099694, hereinafter "Diamond"**), and further in view of Ijdens et al.** (US 2006/0090030, hereinafter "Ijdens").

In regards to **claim 9**, **Dutta and Woodward** teach the method of claim 1, wherein the metadata sources include a basic metadata source and a media library source **(Woodward; par [0017], lines 21-30; par [0019]; par [0020]; par [0023], lines 1-6)**.

Dutta and Woodward do not expressly teach the metadata sources including an ASX source, a WSX source, a file header source, and a DRM source.

Ramalay teaches an ASX file as a metadata source **(Ramalay; par [0042], par [0094])**.

Eyal teaches playlists that are stored on a server module being a source of metadata **(Eyal; par [0110], par [0189])**.

Diamond teaches metadata in a media file header **(Diamond; par [0026])**.

Ijdens teaches DRM data as a type of metadata **(Ijdens; par [0017])**.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method described by Dutta and Woodward with the various sources of metadata taught by Ramalay, Eyal, Diamond, and Ijdens in order to allow a user to display a requested media file and customize the media output based on the metadata retrieved from the metadata source **(Ramalay, par [0042], par [0094]; Eyal, par [0110], par [0189])**.

Claim 18 is rejected with the same rationale given for claim 9.

Response to Amendment

14. Applicant's amendments filed 6/5/07 with respect to the objections to the claims have been fully considered. The corresponding objections have been withdrawn accordingly.

15. Applicant's amendments filed 6/5/07 with respect to the 35 U.S.C. 112, 2nd paragraph rejections have been fully considered. While the corresponding rejections of claims 9 and 18 have been withdrawn, the rejections of claims 3 and 12 have been maintained and new rejections have been introduced as a result of applicant's amendments, as explained above.

16. Applicant's amendments filed 6/5/07 with respect to the 35 U.S.C. 101 rejections have been fully considered. The corresponding objections have been withdrawn accordingly.

Response to Arguments

17. Applicant's arguments with respect to the prior art rejections of the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Kavita Padmanabhan** whose telephone number is **571-272-8352**. The examiner can normally be reached on Monday-Friday, 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kavita Padmanabhan
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AU 2161

August 14, 2007

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